

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the reasons that follow. No claims are amended. Claims 1-8, 12-21, 23-28, 37, 39, 40, 53, 56, and 58-64 are pending in this application.

I. Priority

On page 2, the Office Action states:

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. ...

The disclosure of the prior-filed applications, Application No. 09/476,686; 60/134,782; 09/343,104; 09/314,648; 60/134,782; 10/306,768; 09/292,569; 09/186,962; 08/649,419; 60/082,228; 09/186,962; 08/694,419; 08/637,531, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. The claims disclose limitation that may be beyond scope of prior art disclosure. Furthermore, the priority information do not support all of the claims (e.g. notification of the winning of a price, displaying indication of a match, etc). ...

Applicant respectfully disagrees.

Applicant notes that the Office Action does not specifically identify a claim that lacks support. Applicant submits that support for Claims 1-8, 12-21, 23-28, 37, 39, 40, 53, 56, and 58-64 can be found throughout U.S. Provisional Application 60/134,782, filed May 19, 1999, to

which the present application claims benefit. In particular, support for Claims 1-8, 12-21, 23-28, 37, 39, 40, 53, 56, and 58-64 can be found at least in:

- Page 4, line 16 through page 5, line 11.
- Page 6, lines 20-31
- Page 10, lines 25-30
- Page 12, lines 13-18
- Page 14, lines 1-16
- Page 16, line 20 through page 19, line 10.

Applicant notes that the material from U.S. Provisional Application 60/134,782, filed May 19, 1999, is included verbatim in the parent application and the present application. Specifically, the material from U.S. Provisional Application 60/134,782 can be found at least beginning at column 8, line 50 of U.S. Patent No. 7,562,392, the parent application. In the present application, the material from U.S. Provisional Application 60/134,782 can be found at least beginning at paragraph [0064], with reference to the publication. Thus, Applicant submits that there is support in the priority applications at least back to May 19, 1999. In addition, Applicant notes that priority dates are determined on a claim-by-claim basis.

For at least these reasons, Applicant submits that Applicant has complied with the conditions for receiving the benefit of an earlier filing date under 35 U.S.C. § 120.

II. Claim Rejection Under 35 U.S.C. § 102(a)

On page 3 of the Office Action, Claims 1-8, 12-21, 23-28, 37, 39, 40, 53, 56, and 58-64 were rejected under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 6,456,725 to Cox et al. (hereinafter “Cox”). Applicant respectfully traverses the rejection. Cox is not prior art.

As discussed above in **Section I.**, Applicant submits that Claims 1-8, 12-21, 23-28, 37, 39, 40, 53, 56, 58, and 59 are supported at least by U.S. Provisional Application 60/134,782, filed May 19, 1999, to which the present application claims benefit. The earliest priority date of Cox is June 24, 1999. Thus, the present claims have a priority date earlier than Cox. Therefore, Cox is not prior art. Consequently, the rejection is improper and should be withdrawn.

An anticipation rejection cannot be properly maintained where the reference cited is not prior art. For at least these reasons, the rejection of Claims 1-8, 12-21, 23-28, 37, 39, 40, 53, 56, and 58-64 under 35 U.S.C. § 102(a) should be withdrawn.

III. Claim Rejection Under 35 U.S.C. § 102(g)

On page 9 of the Office Action, Claims 1-8, 12-21, 23-28, 37, 39, 40, 53, 56, and 58-64 were rejected under 35 U.S.C. § 102(g) based upon claims 1-67 of Patent No. 6456725. Applicants respectfully traverse the rejection. The Section 102(g) rejection is improper and should be withdrawn.

A Section 102(g) rejection can only be made after the conclusion of an interference proceeding. (“Upon conclusion of an interference, subject matter claimed by the losing party that was the basis of the interference is rejected under 35 U.S.C. 102(g), unless the acts showing prior invention were not in this country.” MPEP 2138.01; Underlining added). In the present application, no interference has been provoked and no interference proceeding has been conducted. Further, the Examiner has not made a showing as to why an interference should be declared. For at least these reasons, the rejection of Claims 1-8, 12-21, 23-28, 37, 39, 40, 53, 56, and 58-64 under 35 U.S.C. § 102(g) is improper and should be withdrawn.

* * *

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit

card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date July 1, 2011

By /Eric N. Huston/

FOLEY & LARDNER LLP

Customer Number: 99103

Telephone: (608) 258-4205

Facsimile: (608) 258-4258

Eric N. Huston

Attorney for Applicant

Registration No. 65,684